

9 FAM 41.62 Notes

9 FAM 41.62 N1 Designation of Exchange Visitor Programs

The Exchange Visitor Facilitative Staff, Office of General Counsel, United States Information Agency (USIA) is responsible for designating and monitoring exchange visitor programs under which U.S. Government agencies and private organizations sponsor aliens for education or training in the United States.

9 FAM 41.62 N1.1 Authorization To Issue Form IAP-66

Each sponsoring agency or private organization designates a Responsible Officer [see 9 FAM 41.62 N3] and alternate for administering its programs and authorizes these officers to issue Form IAP-66 to selected participants in those programs. When an application for the designation of a program is approved by USIA, a program description and number are assigned. [See 9 FAM 41.62 N2 and 9 FAM 41.62 N7.] A copy of Form IAP-66 is shown as 9 FAM 41.62 Exhibit I to this section.

9 FAM 41.62 N1.2 Form IAP-66 Is Basic Document for Exchange Visitor Visa

Form IAP-66 is the basic document required to support an application for an exchange visitor visa and for maintaining exchange visitor status. Special regulations and procedures have been developed concerning designated exchange visitor programs approved for graduate medical education or training for alien physicians who have not graduated from an accredited medical school in the United States or Canada. [See 9 FAM 41.62 N9.1.]

9 FAM 41.62 N1.3 Exchange Visitor Skills List

The Exchange Visitor Skills List with amendment (shown as 9 FAM 41.62 Exhibit II to this section) is a designated list of fields of specialized knowledge or skill and those countries which clearly require the services of persons engaged in one or more of such fields. Any alien who is a national or resident of one of those countries and obtains an exchange visitor visa and/or becomes a participant in an exchange visitor program involving a designated field of specialized knowledge or skill after the effective date of the list or any amendments thereto is subject to the 2-year foreign residence (home country physical presence) requirement of INA 212(e).

[See also 22 CFR 41.62(c)(1)(b).]

9 FAM 41.62 N2 Serial Numbers of Designated Exchange Visitor Programs

Exchange visitor programs designated by USIA under INA 101(a)(15)(J), frequently referred to in these NOTES as “designated programs,” are assigned a program number within one of the following series to indicate the sponsoring agency or the type of sponsoring agency or organization:

G-1 USIA

G-2 Agency for International Development (AID)

G-3 Department of State

G-4 International agencies or organizations in which the U.S. Government participates

G-5 Other national, state, or local government agencies

P-1 Educational institutions such as schools, colleges, universities, seminaries, libraries, museums, and institutions devoted to scientific and technological research

P-2 Hospitals and related institutions

P-3 Nonprofit associations, foundations, and institutions

P-4 Business and industrial concerns.

9 FAM 41.62 N3 Exchange Visitor Program Definitions

The Exchange Visitor Program regulations of USIA [22 CFR 514.1] include the following definitions:

(a) “Agency” means the United States Information Agency of the United States of America;

(b) “Country of nationality or last legal residence” means either the country of which the exchange visitor was a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring exchange visitor status;

(c) “Director” means either the Director of USIA or an officer duly designated by the Director;

(d) “Exchange Visitor” means a “participant” and the “immediate family” of such participant as defined in this section;

(e) “Exchange Visitor Program” means a program of a sponsor designed to promote interchange of persons, knowledge and skills, and the interchange of developments in the field of education, the arts and sciences, and concerned with one or more categories of “participants” as defined in this section, which has been designated as such by the Director of USIA, to promote mutual understanding between the people of the United States and people of other countries;

(f) “Financed directly” means financed in whole or in part by the United States Government or the government of the participant’s nationality or last legal permanent residence with funds contributed directly to the participant in connection with participation in an Exchange Visitor Program;

(g) “Financed indirectly” means (a) financed by an international organization, with funds contributed by either the United States or the participant’s government for use in financing such exchanges, or (b) financed by an organization or institution, with funds made available by either government for the specific purpose of furthering such international exchange;

(h) “Graduate medical education or training” means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include participation in a program involving observation, consultation, teaching or research in which there is no element or only incidental elements of patient care. This program may consist of a medical specialty and directly related medical subspecialty or either of the two;

(i) “Home-country physical presence requirement” means the requirement that a participant who is within the purview of section 212(e) of the Immigration and Nationality Act, as amended, must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least 2 years following departure from the United States before the participant is eligible to apply for an immigrant visa or for permanent residence, or for a nonimmigrant H visa as a temporary worker or trainee, or for a nonimmigrant L visa as an intracompany transferee, or for a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

(j) “Immediate family” means the alien spouse and minor unmarried children of a participant who are accompanying or following to join the participant and who are seeking to enter or have entered the United States temporarily on a J-2 visa or are seeking to acquire or have acquired such status after admission;

(k) "Participant" means any foreign national who has been selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered the United States temporarily on a J-1 visa, or who is seeking to acquire or has acquired such status after admission, including but not limited to the categories listed in N4 below;

(l) "Participant's government" means the government of the country of the participant's nationality or where the participant had a legal permanent residence;

(m) "Person with required knowledge or skill" means a participant who has specialized or expects to specialize in a field of knowledge or skill which is clearly required by the country of nationality or last legal permanent residence, as designated by the Director in a separate schedule;

(n) "Responsible Officer" means the official of an organization sponsoring an exchange visitor program who has been listed with USIA as being responsible for administering the program and carrying out the obligations which the organization assumes in undertaking to sponsor a program. The designation of an alternate Responsible Officer is permitted and encouraged; and

(o) "Sponsor" means any reputable U.S. agency or organization or recognized international agency or organization having U.S. membership and offices which makes application to the Director of USIA for designation of a program under its sponsorship as an exchange visitor program and whose application is approved.

9 FAM 41.62 N4 Categories of Participants

According to USIA regulations [22 CFR 514.2], participants include, but are not limited to, the following types:

(a) A student, for the purpose of pursuing formal courses, or any combination of courses, research, or teaching, leading to a recognized degree or certificate, in an established school or institution of learning. Upon receipt of a degree or certificate, a student may be granted up to a maximum of 18 months of practical training provided:

- (1) The training is needed to round off the academic studies,
- (2) The training is not available in the student's home country,
- (3) The training is directly related to the academic program, and

(4) The training is authorized in writing by the Responsible Officer of the exchange visitor program involved;

(b) A trainee, for the purpose of obtaining on-the-job training with firms, institutions and/or agencies in a specialized field of knowledge or skill for periods not to exceed 18 months;

(c) A teacher, for the purpose of teaching in established primary or secondary schools, or established schools offering specialized instruction;

(d) A professor, for the purpose of teaching or conducting advanced research, or both, in an established institution of higher learning;

(e) A research scholar or specialist, for the purpose of undertaking or participating in research or in demonstrating specialized knowledge or skills;

(f) An international visitor, for the purpose of travel, observation, consultation, research, training, sharing, or demonstrating specialized knowledge or skills, or participating in organized people-to-people programs; or

(g) A professional trainee, for the purpose of pursuing clinical training in the medical and allied fields.

9 FAM 41.62 N5 Qualifications for J-1 Exchange Visitor Classification

9 FAM 41.62 N5.1 Certificate of Eligibility for Exchange Visitor J-1 Status

A J-1 visa may be issued only to an alien who presents to the consular officer a properly completed Form IAP-66 signed by the Responsible Officer of the sponsoring agency or organization. A Form IAP-66 with blanks where names are to be indicated or which has otherwise not been fully completed is unacceptable for the purpose of issuing a J-1 visa.

9 FAM 41.62 N5.2 Residence Abroad

An alien applying for a J-1 visa must establish pursuant to INA 101(a)(15)(J) that the alien has a residence abroad which the alien has no intention of abandoning. [See 22 CFR 41.21 N2.] Consular officers should not automatically assume that an exchange visitor visa applicant will return to a residence abroad merely because the applicant is subject to the 2-year foreign residence requirement of INA 212(e) and the special restrictions of that section relating to changing nonimmigrant classification and adjusting to lawful permanent residence status. Every waiver of this 2-year residence requirement tends to defeat the objective of exchange visitor programs as a whole. In evaluating the probability that an applicant will return to a residence abroad, an important factor for the consular officer to consider is whether the skills that the alien expects to acquire in the United States can be readily and effectively utilized in the country to which returning.

9 FAM 41.62 N5.3 Knowledge of English Language

A prospective exchange visitor must have sufficient knowledge of English to undertake the anticipated program successfully unless the sponsoring agency or organization is aware of a deficiency in the alien's English language capability and has indicated willingness to accept the alien despite the deficiency. INA 212(j)(1)(B) specifically requires competency in oral and written English on the part of every alien physician coming to the United States to participate in an exchange visitor program for graduate medical education or training. This requirement cannot be waived by a sponsoring organization.

9 FAM 41.62 N5.4 Alternative Visa Classification

Every applicant for an exchange visitor visa who is subject to the 2-year home country physical presence requirement of INA 212(e) must be informed of that requirement and, in the absence of a waiver of the requirement, of the applicant's ineligibility to apply for a nonimmigrant H, K, or L visa or an immigrant visa. The applicant must also be informed of the prohibition in INA 248 against change of nonimmigrant classification (except to A or G) or adjustment of status to that of a permanent resident while in the United States. An applicant who, after being informed of these restrictions, declines to accept a J-1 visa because of uncertainty in the alien's long-range plans regarding immigration to the United States, is to be informed of possible alternative classifications such as B-1, F, H, or even immigrant, for an alien able to qualify. An alternative nonimmigrant visa classification is not possible in those situations in which exchange visitor classification is mandatory. [See 9 FAM 41.62 N7.]

9 FAM 41.62 N6 Prospective Exchange Visitor Visa Procedures

9 FAM 41.62 N6.1 B-2 Visa Issuance Warranted Under Certain Circumstances

When a consular officer is satisfied by credible evidence that an alien has been accepted as a participant in an established exchange visitor program and that circumstances warrant the alien's departure for the United States even though a Form IAP-66 has not yet been received, the officer should consider the issuance of a B-2 visa.

The only evidence which can be accepted as credible and thus warrant the use of this procedure is an original letter of acceptance into an established exchange visitor program containing the program number [see 9 FAM 41.62 N2] or a statement that a Form IAP-66 has been, or will be, issued in the alien's name.

The letter must be signed by the sponsor or Responsible Officer and written on the letterhead stationery of a sponsoring school or organization.

When a B-2 visa is issued under the above procedures, the following notation is to be placed below the visa: "Prospective exchange visitor—supporting documents to be presented at P.O.E." The consular officer must inform the alien: (1) that upon arrival at a port of entry the alien must present to the immigration officer the original letter of acceptance into the exchange visitor program, and (2) that upon being admitted to the United States, the alien must obtain a Form IAP-66 from the accepting school or organization and present it to the INS office having jurisdiction, together with a Form I-506, Application for Change of Nonimmigrant Status, and the required fee.

9 FAM 41.62 N6.2 Applicant who does not have IAP-66 or other evidence confirming acceptance in Exchange Visitor Program.

Occasions will arise when an alien will claim circumstances urgently requiring departure for the United States to begin work or training in an Exchange Visitor Program, but can present neither a valid Form IAP-66 nor a letter confirming acceptance into an established program which warrants issuance of a B-2 visa. In urgent cases, an applicant who cannot meet the requirements for a B-2 "Prospective Exchange Visitor" visa as set forth in N6.1 should be asked to have an IAP-66 furnished through the international express mail (courier) services. (For a list of express mail carriers, see 22 CFR 41.61, Exhibit IV.) For countries where express mail services are not available, the Department will determine on a case-by-case basis what assistance will be provided, including telegraphic notification. Given the large number of posts covered by express mail services and the generally timely mailing of forms by sponsoring agencies and organizations, it is anticipated that Departmental assistance will be needed only infrequently.

9 FAM 41.62 N7 Mandatory Exchange Visitor Classification in Certain Cases

All participants in exchange visitor programs who are sponsored by USIA, AID, or the Department (serial numbers G-1 through G-3), must be documented as exchange visitors. Participants in exchange visitor programs sponsored by other U.S. Government agencies (serial number G-4) must also be documented as exchange visitors if participation is directly financed in whole or in part by the sponsoring agency. A participant within the latter category may not be issued a student visa even though the university to be attended by the participant may also have issued a Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, in the participant's name.

An exchange visitor visa issued to such a participant must designate the G series program, even though the university being attended may also have issued a Form IAP-66 designating the university's private (P series) exchange program. [See 9 FAM 41.62 N2.]

9 FAM 41.62 N8 General Limitations Applicable to Exchange Visitors

9 FAM 41.62 N8.1 Limitation of Period of Stay

To ensure that exchange visitors remain in the United States only as long as necessary to satisfy their stated objectives and the intent of the Mutual and Cultural Exchange Act of 1961, as amended, the general limits on the period of stay of exchange visitors are established by regulations of the USIA [22 CFR 514.23]. Exceptions to these limitations are permitted only in unusual circumstances. The authorized maximum periods of stay for the various categories of participants are:

(a) Students—as long as they pursue substantial scholastic programs leading to recognized degrees or certificates. After receiving degrees or certificates from the U.S. institution, students whom the sponsor recommends for practical training may be permitted to remain for such purpose for an additional period of up to 18 months;

(b) Teachers, professors, research scholars, and specialists—3 years;

(c) International visitors -- 1 year;

(d) Professional trainees—who are graduates of a medical school pursuing graduate medical education or training in the United States. the time typically required to complete such program, with a maximum of 7 years unless exceptional circumstances are present;

(e) Graduate nurses -- 2 years;

(f) Medical technologists, medical record librarians, medical record technicians, radiologic technicians, nurse anesthetists, and other participants in similar categories—length of the approved training program plus a maximum of 18 months for practical training, not to exceed a total of 3 years;

(g) Business and industrial trainees -- 18 months;

(h) Alien employees of the Bureau of Broadcasting or the Bureau of Pro-grams (Press and Publications Service) of USIA engaged in the translation or broadcast narration of foreign languages or the preparation and production of foreign language programs -- 10 years plus such additional periods of time as the Director may from time to time determine in individual cases; and

(I) Research assistants sponsored under contract, grant or cooperative agreement by the National Institutes of Health -- 5 years.

9 FAM 41.62 N8.2 Completion of Program Objective in Less Than Maximum Length of Time

Limitations in 9 FAM 41.62 N8.1 prescribe, as a general rule, the maximum stay of exchange visitors in the cited categories. A participant who is able to complete the stated program objective in less time than the maximum length of time will be expected to return abroad to comply with the purposes of the Mutual and Cultural Exchange Act of 1961, as amended. These limitations apply regardless of the number of exchange visitor programs in which the visitor participates. Therefore, a transfer from one program to another will not extend the stay of a participant beyond the limits set for a particular category. These limitations should not be construed as extending or changing in any way the authorized period of stay specified in the official description of an Exchange Visitor Program.

9 FAM 41.62 N8.3 Extensions Based on Extenuating Circumstances Require USIA Approval

In those extenuating circumstances when an alien who has completed participation in one exchange visitor program and remained in the United States for the entire period, or a substantial portion of it, desires to participate in a new program, a favorable advisory opinion must be obtained before the consular officer may issue a new visa. Similarly, if a participant requires an extension of time to complete a designated program, prior Washington approval is required. In both cases, the consular officer must submit the following pertinent details to USIA, GC/V (Subject: Education and Cultural Exchange), so that a decision may be rendered:

(a) Aggregate length of time spent by the applicant in the United States as an exchange visitor or in any other nonimmigrant status;

(b) Programs in which the applicant participated;

(c) Length of stay abroad since completion of previous programs;

(d) Circumstances surrounding the applicant's selection to participate in present program; and

(e) The consular officer's evaluation of the applicant's intent to return to the applicant's residence abroad and of the validity of the applicant's reasons for desiring to continue exchange visitor status in the United States. Although waivers are granted occasionally, the time limitations on the period of stay listed in 9 FAM 41.62 N8.1 are generally maintained.

9 FAM 41.62 N9 Special Category Exchange Visitor Programs

The USIA has by regulation provided for specific exchange visitor programs applicable to participants in certain special categories and has designated programs enabling sponsoring organizations and institutions to provide the education or training for these special programs.

9 FAM 41.62 N9.1 Alien Physicians

The Health Professions Educational Assistance Act of 1976, as amended, imposed certain conditions and restrictions on alien physicians coming to the United States after January 9, 1978, to participate in an exchange visitor program in which they will receive graduate medical education or training. The program for such an alien physician generally consists of a residency or fellowship program involving health care service to patients. The USIA regulations applicable to these physicians are to be distinguished from separate regulations applicable to alien physicians coming to exchange visitor programs for the purposes of observation, consultation, teaching, or research in which there is little or no patient care.

9 FAM 41.62 N9.1-1 Alien Physicians Coming To Receive Graduate Medical Education or Training (Primarily Clinical)

An alien physician in this category, other than an alien who is a graduate of a school of medicine or of one of the other health professions accredited by a body or bodies approved for that purpose by the Secretary of Education (normally an accredited U.S. or Canadian medical school):

(a) Must be issued a Form IAP-66 by the Educational Commission for Foreign Medical Graduates (ECFMG) after that organization has determined that the alien is qualified to undertake such training and has successfully completed the requisite examination requirements (VQE or FMGEMS) [see N9.1-3] and has established competency in oral and written English;

(b) Is automatically subject to the 2-year foreign residence requirement of INA 212(e), if admission to the United States as an exchange visitor or acquisition of exchange visitor status was after January 9, 1977 and is not eligible for a waiver of the requirement based on a “no objection” statement issued by the country of the exchange visitor’s nationality or last residence;

(c) Is ineligible to receive a change of nonimmigrant classification under INA 248 to any other nonimmigrant category; and

(d) Is limited to participation in the specialty program to the time typically required to complete such program as determined by the Director of USIA at the time of the alien's entry into the United States, except that the maximum duration of training is 7 years, unless the alien has demonstrated to the satisfaction of the Director that the alien will return at the end of the specialty program and the alien's country has an exceptional need for an individual trained in such specialty. [INA 212(i)(1)(D)(i).]

9 FAM 41.62 N9.1-2 Alien Physicians Coming Solely or Principally for the Purpose of Observation, Consultation, Teaching, or Research (Primarily Academic)

An alien physician within this category is not subject to any of the limitations (a) through (d) cited in N9.1-1, because the physician is not deemed to be coming to the United States "to receive graduate medical education or training." For such alien physicians, the conditions for issuance of Form IAP-66 are:

(a) If no element of patient care is involved in the program, the Responsible Officer or duly designated alternate must sign and append to the Form IAP-66 a certification which states "This certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching or research and that no element of patient care services is involved."

(b) If incidental patient contact is involved in the program, the dean of the accredited U.S. medical school concerned, or a designee, must certify to the following five points and append the certification to the Form IAP-66:

(1) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research;

(2) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien licensed to practice medicine in the State of rule;

(3) The alien physician will not be given final responsibility for the diagnosis and treatment of patients;

(4) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professions in the State in which the alien physician is pursuing the program; and

(5) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(c) The ECFMG may also issue a Form IAP-66 to an alien physician within this category provided the required certification in (a) or (b) above has been provided to the ECFMG for appending to the Form IAP-66.

9 FAM 41.62 N9.1-3 Medical Examination Equivalent to National Board of Medical Examination (NBME), Parts I and II

On September 8, 1977, the Secretary of the Department of Health and Human Services designated a newly developed Visa Qualifying Examination (VQE) as an equivalent to the NBME, Parts I and II, for the purpose of INA 212(j)(1)(B). The VQE retained its equivalent status through the date of its last administration by the ECFMG in September 1983. On July 18, 1983, the Secretary of HHS designated a new equivalent examination, known as the Foreign Medical Graduate Examination in Medical Sciences (FMGEMS), which is administered by the ECFMG each January and July, beginning in July 1984. This examination replaces both the ECFMG medical examination and the VQE. The ECFMG is located at 3624 Market Street, Philadelphia, Pennsylvania 19104, U.S.A. The telephone number is (215) 386-5900. The cable address is EDCOUNCIL, Philadelphia, Pa., U.S.A..

9 FAM 41.62 N9.2 Teen-Age Exchange Visitor

The USIA has designated programs specifically designed to provide foreign teen-agers who are secondary school students, or recent graduates between the ages of 15 and 19, an opportunity to spend from 6 months to a year studying at a U.S. high school or other educational institution. The primary purpose of the programs is to improve the foreign students' knowledge of American culture and language through active participation in family, school, and community life.

9 FAM 41.62 N9.2-1 Sponsors' Responsibilities

The designated sponsor for a foreign teen-age exchange visitor program must:

(a) Select otherwise qualified participants who have a sufficient knowledge of English to function in an English speaking environment and who have been carefully screened for demonstrated maturity and ability to get maximum benefit from the programs;

(b) Assure that all agreements between the students, their parents, and the sponsors are in writing and fully understood by the students and their parents;

(c) Select and personally interview in their home the host families with whom the students will be placed during sponsorship;

(d) Make specific arrangements at least 3 weeks in advance of the students' departure from the home country for admission of the students to a school, with notification to the school principal or superintendent or school board, and make clear arrangements with the school authorities regarding tuition payments required or a waiver of tuition payments;

(e) Assure that both the selected students and the host families are provided with timely and appropriate orientation; and

(f) Assure that the selected students have acceptable health, accident and liability insurance covering the period from departure from their home countries until return.

9 FAM 41.62 N9.2-2 Employment of Participants

Teen-age exchange visitors are not permitted to accept full-time employment during their stay in the United States. However, noncompetitive small jobs, not to exceed 10 hours per week, such as tutoring, grass cutting, baby sitting, and newspaper delivery, are permitted.

9 FAM 41.62 N9.3 Practical Trainees

The USIA has designated some special programs under which foreign nationals are provided opportunities for on-the-job practical training in a U.S. workplace for periods up to 18 months. The primary purpose of these programs is to improve the participant's knowledge of American techniques, methodology, and philosophy in the individual's own field of endeavor and to enhance the participant's skills through active participation in the day-to-day operations at the training location. The programs are also designed to enable the exchange visitor to observe and participate in American life and, if needed, to improve competency in English. [22 CFR 514.13(c).]

9 FAM 41.62 N9.4 Summer Student Travel/Work Program

These specially designated programs are designed to achieve the educational objectives of international exchange by involving foreign university students during their summer vacations directly in the daily life of the host country through temporary employment opportunities. Each selected participant must have a prearranged job, or firm appointment with prospective employers, before coming to the United States, or have sufficient personal funds to assure financial independence if not employed. [22 CFR 514.13(d)]

9 FAM 41.62 N9.5 International Camp Counselor Programs

These designated programs are intended to give carefully selected international camp counselors an opportunity to spend approximately 8 weeks at an American camp imparting appropriate skills to American youth, concluding with an optional 1 to 3 week period to tour the United States. The principal purpose of these programs is to improve American knowledge of a foreign culture and to allow the youth at camps throughout the United States to experience international understanding on a personal basis. [22 CFR 514.13(e)]

9 FAM 41.62 N10 Requirement for Form IAP-66 in Case of Spouse and/or Children

When the spouse or child of an exchange visitor accompanies the principal alien to the United States, a separate Form IAP-66 is not required. However, if the exchange visitor's spouse or children follow later, the consular officer should inform them that a duplicate copy of the principal alien's current Form IAP-66 must be presented at the port of entry. The box in the upper right-hand corner of the form indicates the purpose of the form. If the members of the exchange visitor's family propose to travel separately from the J-1 nonimmigrant, the last item, "Permit visitor's immediate family to enter U.S. separately," should have been checked.

9 FAM 41.62 N11 Automatic Extension of Exchange Visitor Visa

9 FAM 41.62 N11.1 Cases in Which J Visas Are Automatically Extended

An exchange visitor visa may be considered to be automatically extended upon application for readmission to the United States (and therefore the visa in the passport need not have an expiration date which is current), provided the exchange visitor:

(a) Is applying for admission to the United States after a temporary absence of not more than 30 days during which time the exchange visitor has been "solely in contiguous territory or adjacent islands other than Cuba," that is Canada, Mexico, or the Caribbean islands other than Cuba [see INA 101(b)(5) and 22 CFR 41.112(e)(1)];

(b) Has maintained, and intends to resume, status as an exchange visitor and the previously authorized period of stay has not expired at the time of application for readmission;

(c) Presents either a valid Form I-94, Arrival-Departure Record, or a valid pink copy of Form IAP-66 with an endorsement in item 3 by the issuing school official or program sponsor showing the expiration date of authorized stay in the United States;

(d) Has a valid passport; and

(e) Does not require the authorization of temporary admission to the United States under INA 212(d)(3), which provides for a waiver of grounds of excludability.

9 FAM 41.62 N11.2 Aliens Who Acquired Exchange Visitor Status After Entry to the United States

An alien who entered the United States in a nonimmigrant classification other than exchange visitor, but whose classification was subsequently changed to exchange visitor, may be considered to have the previous visa automatically revalidated and converted to that of an exchange visitor if the conditions (a) through (e) of N11.1 exist at the time of the application for readmission.

9 FAM 41.62 N12 Certain Former Exchange Visitors

An alien who was admitted into the United States as an exchange visitor, or who acquired such status after admission, who is within the purview of INA 212(e) is not eligible for an immigrant visa or for a nonimmigrant visa under INA 101(a)(15)(H),(K) or (L), notwithstanding the approval of a petition as provided in INA 214(c), unless:

(1) It has been established that the alien has resided and has been physically present abroad in the country of the alien's nationality or last residence for an aggregate of at least 2 years following termination of exchange visitor status as required by INA 212(e), or

(2) The 2-year home country physical presence requirement of INA 212(e) has been waived by the Attorney General in the alien's behalf.

9 FAM 41.62 N13 Documentation Required for Admission as an Exchange Visitor

To be eligible for admission, an exchange visitor must present the following documentation at the port of entry:

(a) Valid nonimmigrant visa bearing J-1 classification, unless exempt from nonimmigrant visa requirements or eligible for admission under the automatic revalidation procedures;

(b) Passport valid for 6 months beyond the anticipated period of admission, unless exempt from passport requirements; and

(c) Properly executed Form IAP-66, or in case of reentry during the period of a previously authorized stay, a copy of the executed Form IAP-66. (Copies 1 and 2 of Form IAP-66 must be surrendered to an immigration officer upon arrival in the United States. Copy 3 may be retained for reentries within the period of previously authorized stay.)

9 FAM 41.62 N14 Extension of Stay and Program Transfers

The initial period of stay in the United States authorized for an exchange visitor may not exceed 1 year, despite the fact that a sponsorship beyond that period may be contemplated. The completed Form IAP-66, which is required in order to apply for an extension or transfer, may be obtained from or with the assistance of a sponsor, and is submitted to the appropriate INS office within 15 to 60 days before expiration of the authorized period of stay. Members of an exchange visitor's immediate family maintaining J-2 status may extend their stay for the same period as the participant.

9 FAM 41.62 N15 Change of Status or Nonimmigrant Classification

Exchange visitors are expected to depart the United States promptly upon completing their program objective. An exchange visitor who is subject to the 2-year home country physical presence requirement of INA 212(e), and has neither fulfilled the requirement nor received a waiver thereof, is not eligible to adjust status to that of an alien lawfully admitted for permanent residence or to change nonimmigrant classification while in the United States to any other nonimmigrant category except to a classification under INA 101(a)(15)(A) or (G). Alien physicians who came to the United States as exchange visitors after January 9, 1977, or who acquired exchange visitor status after that date in order to receive graduate medical education or training, are automatically subject to the 2-year home country physical presence requirement. These alien physicians are ineligible to change nonimmigrant classification to any other category, even to a classification under INA 101(a)(15)(A) or (G), unless they have received a waiver of the foreign residence requirement.

9 FAM 41.62 N16 Employment of Exchange Visitors and Dependents

The primary purpose of exchange visitor programs is to foster international understanding. It is not intended that participants in the programs will compete in the workplace with citizens or lawful permanent residents and consequently certain restrictions are imposed on the employment of participants [22 CFR 514.24].

9 FAM 41.62 N16.1 Prohibition on Employment of Exchange Visitors

An exchange visitor, other than a student or a member of the immediate family of a participant in certain circumstances, who engages in activities which both produce income from U.S. sources and are unrelated to the program in which the alien is participating, ceases to maintain lawful status in the United States as an exchange visitor.

9 FAM 41.62 N16.2 Conditions for Student Employment

9 FAM 41.62 N16.2-1 Exceptions to Curtailment of Status

An exchange visitor student is not subject to curtailment of status as stated in N16.1 if all the following conditions are met:

(a) Income producing employment not related to the student's program is required by an urgent financial need which has arisen since the student acquired exchange visitor status; and

(b) The employment does not cause the student participant to reduce preparations and studies below the full-time level; and

(c) The student participant has the written approval of the sponsor signed by the Responsible Officer or alternate.

9 FAM 41.62 N16.2-2 No Full-Time Employment

No full-time employment (40 hours a week) or employment approaching the nature of full-time employment may be approved for an exchange visitor student by the sponsor, except during periods of school vacation.

9 FAM 41.62 N16.2-3 Scholarships, Fellowships, and Assistantships

Remunerative employment of an exchange visitor student who is otherwise taking a full course of study pursuant to the terms of a scholarship, fellowship, or assistantship is considered to be a part of the individual's academic program if the employment is both on campus and related to the participant's course of study. Such employment need not be required by an urgent financial need which has arisen since the student acquired exchange visitor status.

9 FAM 41.62 N16.3 INS Authorization Required When Immediate Family of Participant Accepts Employment

The accompanying spouse and children of a participant may accept paid employment for their own support, including their expenses for recreational and cultural activities and related travel, provided the employment is authorized by INS. INS will not approve the employment if the income is needed to support the participant. The application to accept employment, which need not be in writing, must be made to the INS district director having jurisdiction over the place where the participant is residing temporarily.

9 FAM 41.62 N17 Foreign Residence Requirements of INA 212(e) and Waivers

[See 22 CFR 40.7(b) and Notes.]

9 FAM 41.62 N18 Issuance of Two-Entry Visa in Lieu of Reciprocal Single-Entry Visa

[See 9 FAM PART IV Appendix B/C/E and 22 CFR 41.112 N4.]

9 FAM 41.62 N19 Exemption of Exchange Visitors From Selective Service Registration

[See 9 FAM PART IV.]

9 FAM 41.62 N20 Testing the Applicant's Knowledge of English

[See 22 CFR 41.61 N15.]

9 FAM 41.62 N21 Classification of Party to Proxy Marriage

[See 22 CFR 41.11 N4.7.]